

EAGLE EXPLORATION CO.

IBLA 82-897

Decided November 30, 1982

Appeal from those parts of decisions of the California State Office, Bureau of Land Management, rejecting certain lands in noncompetitive over-the-counter oil and gas lease offers CA 9766 and CA 9761.

Affirmed.

1. Oil and Gas Leases: Generally -- Oil and Gas Leases: Applications:  
Generally -- Oil and Gas Leases: Discretion to Lease

The Secretary of the Interior may, in his discretion, reject any offer to lease public lands for oil and gas deposits upon a proper determination that leasing would not be in the public interest, even though the land applied for is not withdrawn from leasing under the operation of the mineral leasing laws. Rejection of an offer is proper where the record demonstrates leasing might adversely affect sensitive biological species in the Algodones Dunes Outstanding Natural Area.

APPEARANCES: Raymond N. Joeckel, President, Eagle Exploration Company, Denver, Colorado; Robert D. Conover, Esq., Field Solicitor, and Lawrence A. McHenry, Esq., Office of the Field Solicitor, U.S. Department of the Interior, Riverside, California, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Eagle Exploration Company (Eagle), appeals from those parts of decisions dated May 7 and May 10, 1982, of the California State Office, Bureau of Land Management (BLM), which rejected certain lands in noncompetitive over-the-counter oil and gas lease offers CA 9766 and CA 9761.

Noncompetitive oil and gas lease offer CA 9766 was filed May 12, 1981, by Eagle for 3,767 acres described as:

T. 13 S., R. 17 1/2 E., SB Meridian  
Secs. 14,15,22,23,25,26,27,34,36,all.

Noncompetitive oil and gas lease offer CA 9761 was also filed May 12, 1981, by Eagle. It described 5,295.62 acres as follows:

T. 13 S., R. 16 E., SB Meridian  
Sec. 2,, Lots 1 through 25, S 1/2;  
Secs. 9,12,13,15, All.

T. 13 S., R. 17 E., SB Meridian  
Sec. 5, all.

Both the May 7 and May 10, 1982, BLM decisions provided as follows:

A portion of the lands selected within this township are included in the Algodones Dunes Outstanding Natural Area. These lands have been set aside as an outstanding natural area to preserve and protect threatened and endangered plant and animal species in accordance with the Endangered Species Act of 1973. The lands included in this area are northeasterly of the Coachella Canal Right-of-Way, southwesterly of the Niland Glamis County Road and north of State Highway 78. The issuance of an oil and gas lease under the Act of February 25, 1920 is a matter completely within the discretion of the Secretary of the Interior, Haley v. Seaton, 281 F. 2d 620 (D.C. Cir. 1960). Under the circumstances described above, it appears the proper exercise of the discretionary authority is to reject that portion of offer CA 9766 [and that portion of offer CA 9761] within the Algodones Dunes Outstanding Natural Area. Accordingly, the offer is rejected as to the lands selected within the area described above.

The BLM decisions also rejected certain acreage because it was included in terminated oil and gas leases, and, therefore, available only through the simultaneous leasing procedure. BLM, in addition, required the execution of Bureau of Reclamation stipulations for certain lands within the offers. Eagle has not sought review of either of these actions. Its appeal is limited to those lands rejected because they are included in the outstanding natural area. 1/

In the statements of reasons, Eagle asserts that it appeals both decisions on the basis that its operations can be stipulated to preserve and protect threatened and endangered plant and animal species in accordance with a concept such as that of the Multiple Use Act. Eagle provides no further explanation.

On September 13, 1982, counsel for BLM filed an Answer to the Statement of Reasons and therein requested that the appeal be dismissed because the statement of reasons did not point out grounds for alleging error in BLM's

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1/ Eagle indicates that the amount of acreage involved in the appeal is approximately 3,336 acres in offer CA 9761 and 3,100 in offer CA 9766.

decisions (Answer at 4). Together with the answer, counsel for BLM filed as Exhibit A an Analysis of BLM's Concerns Respecting the Impact of Mineral Leasing in the Algodones Dunes Area. <sup>2/</sup> The record further contains memoranda setting forth the rationale, based on the environmental analysis for the area, why no leasing should be allowed within the Algodones Dunes Area.

[1] The Secretary of the Interior, through his authorized representative, BLM, has the discretion to refuse to lease lands for oil and gas purposes, even if the lands have not been withdrawn from the operation of the general mining and mineral leasing laws. Udall v. Tallman, 380 U.S. 1, 4 (1965); United States v. Wilbur, 283 U.S. 414 (1930); Burglin v. Morton, 527 F.2d 486 (9th Cir. 1976); John M. Lebfrom, 43 IBLA 67 (1979); Cartridge Syndicate, 25 IBLA 57 (1976). This discretion may be exercised in favor of such considerations as wildlife, endangered species preservation, recreational use, and aesthetic or scenic values. Duesing v. Udall, 350 F.2d 748 (D.C. Cir. 1965), cert. denied, 383 U.S. 912 (1966); Placid Oil Co., 58 IBLA 294 (1981); Carol Lee Hatch, 50 IBLA 80 (1980); R. C. Hoefle, 41 IBLA 174 (1979).

BLM may refuse to issue a lease in the proper circumstances, where BLM outlines the reasons for refusal and the record supports the conclusion that the public interest would be served by rejection of a lease offer. Connie Mull, 63 IBLA 317 (1982); Robert P. Kunkel, 41 IBLA 77 (1979). Where the record describes a devotion of land to a public purpose which is worthy of preservation and oil and gas development would be incompatible with this public purpose and would be less in the public interest than preserving the status quo, BLM's decision not to issue a lease will be affirmed in the absence of a showing by an appellant of reasons for modification or reversal. Great White, Inc., 65 IBLA 207 (1982); Connie Mull, supra; Rosita Trujillo, 21 IBLA 289 (1975).

The record supports BLM's action and appellant has failed to provide any reasons for modifying or reversing the BLM determination.

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<sup>2/</sup> It is stated on page 1 of the Analysis:

"The major concern is the leasing of the Algodones Dunes, an area of high recreational and biological value. A major portion of the Algodones Dunes lies in the western half of the Glamis/Dunes Study Area. The Algodones Dunes area is a unique biological eco-system supporting flora and fauna not found in any other region of the United States. The Algodones Dunes is also a highly valued recreation area supporting both wilderness study areas of singular kind and the largest ORV use and free play area in the California Desert (379,609 Vehicle Use Days (VUDs)). The Algodones Dunes is the largest creeping dunes system in the United States.

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With the addition of consummative land use demands (geothermal leasing and oil and gas leasing), the Dunes area could become excessively impacted to the point where now sensitive biological species might become listed as threatened by USFWS, an action, by policy, the Bureau prefers not to cause."

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Bruce R. Harris  
Administrative Judge

We concur:

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Gail M. Frazier  
Administrative Judge

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Douglas E. Henriques  
Administrative Judge